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**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

SHARI SULLIVANT  
23641 Palomino Drive  
Diamond Bar, California 91765

Respiratory Care Practitioner License No. 1772

Respondent.

Case No. R-2083

OAH No. L2007100787

**DEFAULT DECISION  
AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On June 7, 2007, Complainant Stephanie Nunez, in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs (Board), filed Accusation No. R-2083 against Shari Sullivant (Respondent) before the Respiratory Care Board.

2. On May 10, 1985, the Board issued Respiratory Care Practitioner License No. 1772 to Respondent. The license expired on August 31, 2006, and has not been renewed.

3. On or about June 7, 2007, Jennifer Porcalla, an employee of the Complainant Agency, served by Certified Mail a copy of the Accusation No. R-2083, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 23641 Palomino Drive, Diamond Bar, California 91765. A copy of the Accusation, the related

1 documents, and Declaration of Service are attached as Exhibit A, and are incorporated herein by  
2 reference.

3 4. Service of the Accusation was effective as a matter of law under the  
4 provisions of Government Code section 11505, subdivision (c).

5 5. On or about June 23, 2007, Respondent signed and returned a Notice of  
6 Defense, requesting a hearing in this matter. A Notice of Hearing and copy of the Telephonic  
7 Trial Setting Conference Order was served by mail at Respondent's address of record informing  
8 Respondent that an administrative hearing in this matter was scheduled for January 2, 2008. A  
9 copy of Respondent's Notice of Defense, the Notice of Hearing, and Declaration of Service are  
10 attached hereto as Exhibit B, and are incorporated herein by reference. Respondent failed to  
11 appear at the January 2, 2008 hearing.

12 6. Business and Professions Code section 118 states, in pertinent part:

13 (b) The suspension, expiration, or forfeiture by operation of law of a  
14 license issued by a board in the department, or its suspension, forfeiture, or  
15 cancellation by order of the board or by order of a court of law, or its surrender  
16 without the written consent of the board, shall not, during any period in which it  
17 may be renewed, restored, reissued, or reinstated, deprive the board of its  
18 authority to institute or continue a disciplinary proceeding against the licensee  
19 upon any ground provided by law or to enter an order suspending or revoking the  
20 license or otherwise taking disciplinary action against the licensee on any such  
21 ground.

22 7. Government Code section 11506 states, in pertinent part:

23 (c) The respondent shall be entitled to a hearing on the merits if the  
24 respondent files a notice of defense, and the notice shall be deemed a specific  
25 denial of all parts of the accusation not expressly admitted. Failure to file a notice  
26 of defense shall constitute a waiver of respondent's right to a hearing, but the  
27 agency in its discretion may nevertheless grant a hearing.

28 8. Government Code section 11520 states, in pertinent part:

1 (a) If the respondent either fails to file a notice of defense or to appear at  
2 the hearing, the agency may take action based upon the respondent's express  
3 admissions or upon other evidence and affidavits may be used as evidence without  
4 any notice to respondent.

5 9. Pursuant to its authority under Government Code section 11520, the Board  
6 finds Respondent is in default. The Board will take action without further hearing and, based on  
7 Respondent's express admissions by way of default and the evidence before it, contained in  
8 exhibits A through H, finds that the allegations in Accusation No. R-2083 are true.

9 10. The Respiratory Care Board further finds that pursuant to Business and  
10 Professions Code section 3753.5, the costs of investigation and enforcement of the case prayed  
11 for in the Accusation total \$4,517.00, based on the Certification of Costs contained in Exhibit C.

12 DETERMINATION OF ISSUES

13 1. Based on the foregoing findings of fact, Respondent Shari Sullivant has  
14 subjected her Respiratory Care Practitioner License No. 1772 to discipline.

15 2. A copy of the Accusation and the related documents and Declaration of  
16 Service are attached.

17 3. The agency has jurisdiction to adjudicate this case by default.

18 4. The Respiratory Care Board is authorized to revoke Respondent's  
19 Respiratory Care Practitioner License based upon the following violations alleged in the  
20 Accusation:

21 a. Respondent was convicted of a crime which is substantially related  
22 to the qualifications, functions, or duties of a respiratory care practitioner pursuant to Business  
23 and Professions Code section 3750, subdivision (d), and 3752, and California Code of  
24 Regulations, Title 16, section 1399.370, subdivision (b). Specifically, on or about September 1,  
25 2006, Respondent was convicted, upon a plea of nolo contendere, of grand theft in violation of  
26 Penal Code section 487, subdivision (a). She further admitted the special allegation that the  
27 value of the property taken exceeded \$150,000 within the meaning of Penal Code section  
28 12022.6, subdivision (a)(2), as set forth in Exhibits D through H.

b. Respondent committed a fraudulent, dishonest, or corrupt act which was substantially related to the qualifications, functions, or duties of a respiratory care practitioner pursuant to section 3750, subdivision (j). Specifically, Respondent committed the crime of grand theft in violation of Penal Code section 487, subdivision (a), during which the property taken exceeded the of value of \$150,000 within the meaning of Penal Code section 12022.6, subdivision (a)(2), as set forth in Exhibits D through H.

5. Respondent is hereby ordered to pay the above costs of investigation and enforcement of this action.

ORDER

IT IS SO ORDERED that Respiratory Care Practitioner License No. 1772, heretofore issued to Respondent Shari Sullivant, is revoked.

Respondent is ordered to reimburse the Board the amount of \$4,517.00 for its investigative and enforcement costs. The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility to reimburse the Board for its costs. Respondent's license may not be renewed or reinstated unless all costs ordered under Business and Professions Code section 3753.5 have been paid.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on March 24, 2008.

It is so ORDERED February 21, 2008

Original signed by:  
 LARRY L. RENNER, BS, RRT, RCP, RPFT  
 PRESIDENT, RESPIRATORY CARE BOARD  
 DEPARTMENT OF CONSUMER AFFAIRS  
 STATE OF CALIFORNIA